

Mr R, Phar22/548P

Charge

A panel of the Health Practitioner's Disciplinary Tribunal (the Tribunal) convened on 7 September 2022 by audio visual link to hear a charge laid by a Professional Conduct Committee (PCC) appointed by the Pharmacy Council of New Zealand against Mr R (the Pharmacist).

The charge summarised below and alleges that:

1. On 4 August 2020, the Pharmacist was convicted in the District Court of three offences under the Harmful Digital Communications Act 2015, and one offence under the Crimes Act 1961, and these convictions either separately or cumulatively reflect adversely on the Pharmacist's fitness to practise as a pharmacist.
2. Between on or around 23 January 2018 and 5 February 2018, the Pharmacist acted in an unprofessional and/or inappropriate manner by falsifying communication to the Pharmacy Council and PCC and using those communications to mislead these bodies in regard to his alleged conduct and raise doubts about another person.
3. The Pharmacist provided a false and/or misleading Declaration of Financial Means to the Health Practitioners Disciplinary Tribunal.

The alleged conduct amounts to professional misconduct in that, either separately or cumulatively, it amounts to malpractice or negligence in relation to the Pharmacist's scope of practice, and/or it has brought or is likely to bring discredit to the profession.

A full copy of the charge is found in the Appendix to the full decision.

Background

The Pharmacist's convictions related to a dispute that occurred between the Pharmacist and his employers at Pharmacy [A] after the Pharmacist was falsely implicated in theft by another employee.

During the investigation into the alleged theft, the Pharmacist resigned on the basis that no further enquiries would be taken. Later, the Pharmacist's former manager circulated a fax to local pharmacies, warning them not to hire the Pharmacist. This led to defamation proceedings which were privately settled. This also led to a case being raised against the Pharmacist before the PCC.

During the initial PCC hearing, the Pharmacist made allegations to the PCC regarding his former employer from a fake email in an attempt to mislead or distract the Council about the allegations against him.

During the initial PCC hearing, the Pharmacist failed to disclose pertinent financial information relevant to his ability to pay a fine or contribute to the costs of that proceeding.

The Pharmacist also began communicating with the family of his former employer and manager, making allegations about their conduct. He also created a fake dating account and falsified blood test results in an attempt to harm his former employer, leading to the four convictions outlined in the Charge.

Finding

The Tribunal found that all of the Particulars of the charge were made out factually. The Tribunal found that each conviction under Particular 1 reflected adversely on the Pharmacist's fitness to practise. The lengths to which the Pharmacist went to exact revenge raised serious questions for the Tribunal about his fitness to practise.

The Tribunal also found that while Particular 2 on its own was not sufficiently serious to warrant disciplinary taken together with Particular 3 amounted to professional misconduct and warranted disciplinary sanction. Accordingly, the charge was established.

Penalty

The Tribunal considered that taken on its own the established findings of the Tribunal would not have warranted cancellation of registration. However, as this is not the first appearance before the Tribunal and that the first charge was established, the Tribunal ordered:

1. Cancellation with a bar on reapplying for registration for a period of 18 months
2. Censure
3. Costs of \$14,562.95
4. Permanent name suppression of the names of the practitioner, his family, and the victims.

The Tribunal directed publication of the decision and a summary.

The full decision of the Tribunal can be found at: <https://www.hpdt.org.nz/Phar22/548P>